

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,  
acting through the United  
States Department of  
Agriculture

Plaintiff

v.

CARMEN MARIA ESPADA GARCIA, as  
joint debtor and as known member  
of the Estate of ANGEL LUIS LUNA  
MALAVE; LUIS GERALDO LUNA  
ESPADA a/k/a LUIS GERARDO LUNA  
ESPADA, SONIA NOEMI LUNA  
ESPADA, HECTOR RAFAEL LUNA  
ESPADA, MARIA DE LOS ANGELES  
LUNA ESPADA and EDGARDO LUNA  
ESPADA, as known members of the  
Estate of ANGEL LUIS LUNA  
MALAVE; JOHN DOE and RICHARD ROE  
as unknown members of the Estate  
of ANGEL LUIS LUNA MALAVE

Defendants

CIVIL NO. 19-cv-1786 (DRD)

Foreclosure of Mortgage

**AMENDED COMPLAINT**

TO THE HONORABLE COURT:

COMES NOW the United States of America -acting by the United  
States Department of Agriculture- through the undersigned  
attorney, who respectfully alleges and prays as follows:

1. Jurisdiction of this action is conferred on this Court by 28  
U.S.C. Section 1345.

2. Plaintiff, United States of America, is acting through the United States Department of Agriculture, which is organized and existing under the provisions of the Consolidated Farm and Farm Service Agency Act, 7 U.S.C. §1921 et seq. Plaintiff is the owner and holder of one (1) promissory note that affects the property described further below.
3. The promissory note mentioned before is for the amount of **\$300,000.00**, with annual interest of 3.75%, subscribed on September 24, 1999. *See Exhibit 1*
4. For the purpose of securing the payment of said promissory note, a voluntary mortgage was executed on the same date, in favor of the plaintiff, under the terms and conditions stipulated and agreed therein, through Deed No. 136. *See Exhibit 2.*
5. According to the Property Registry, CARMEN MARIA ESPADA GARCIA and ANGEL LUIS LUNA MALAVE are the owners of record of the real estate property subject of this case. Said property is described -as it was recorded in Spanish- as follows:

RÚSTICA: Predio de terreno marcado con el número cuarenta y tres (43) en el plano de subdivisión del Proyecto Gavia, sita en el Barrio San Ildefonso del término municipal de Coamo, Puerto Rico, compuesto de once cuerdas con cuatro mil seiscientos siete diezmilésimas de otra (11.4607) equivalentes a cuarenta y cinco mil cuarenta y cinco metros cuadrados con tres mil doscientos siete diezmilésimas de otro (45.045.3207). En lindes por el NORTE, con camino que la separa de las fincas número treinta y nueve (39) y

treinta y ocho (38); por el SUR, con las fincas número cuarenta y cuatro (44) y cuarenta y seis (46); por el ESTE, con la finca número cuarenta y dos (42); y por el OESTE, con la finca número cuarenta y cuatro (44).

Property 14,332, recorded at page 186 of volume 258 of Coamo, Property Registry of Barranquitas, Puerto Rico.

*See Title Search attached as Exhibit 3*

6. The title search attached to this complaint confirms the registration of the mortgage lien that secure the loan obligation between the plaintiff and the defendants. See *Exhibit 3*.
7. By information and belief, Mr. ANGEL LUIS LUNA MALAVE passed away.
8. By information and belief, the known members of the Estate of ANGEL LUIS LUNA MALAVE are the following individuals:
  - (a) CARMEN MARIA ESPADA GARCIA;
  - (b) LUIS GERALDO LUNA ESPADA a/k/a LUIS GERARDO LUNA ESPADA;
  - (c) SONIA NOEMI LUNA ESPADA;
  - (d) HECTOR RAFAEL LUNA ESPADA;
  - (e) MARIA DE LOS ANGELES LUNA ESPADA, and;
  - (f) EDGARDO LUNA ESPADA.
9. JOHN DOE and RICHARD ROE are included as possible unknown heirs to the Estate mentioned before.
10. Codefendants are jointly and severally responsible for all

amounts owed to plaintiff, arising from the loan obligations subscribed.

11. According to *P.R. Laws Ann.*, Article 959, (Sec. 2787), defendants have 30 days to either accept or reject their participation in the Estate(s) to which they lawfully belong. If no answer is received within said period, their participation shall be deemed as accepted.
12. It was expressly stipulated in the notes evidencing the indebtedness that default in the payment of any part of the covenant or agreement therein contained will authorize the plaintiff, as payee of said notes, to declare due and payable the total amount of the indebtedness evidenced by said notes and proceed with the execution and/or foreclosure of the mortgages.
13. The defendant party herein, jointly and severally, have failed to comply with the terms of the mortgage contracts by failing to pay the installments due on all notes until the present day, and that after declaring all the indebtedness due and payable, the defendant party owes to the plaintiff, according to the Certification of Indebtedness included herein as *Exhibit 4*, the following amounts:
  - a) On the \$300,000.00 Note, as modified:
    - 1) The sum of \$288,519.37, of principal;
    - 2) The sum of \$118,247.87, of interest accrued as

of March 26, 2019, and thereafter until its full and total payment, which interest amount increases at the daily rate of \$29.6424;

3) Plus, insurance premium, taxes, advances, late charges, costs, court costs expenses, disbursements and attorney's fees guaranteed under the mortgage obligation.

14. The indebtedness evidenced by the aforementioned notes is secured by the mortgages over the properties described in this complaint.

15. Codefendants ANGEL LUIS LUNA MALAVE and CARMEN MARIA ESPADA GARCIA are not currently active in the military service for the United States. *See Exhibit 5*

16. The real estate property mentioned before is subject to the following liens in the rank indicated:

(A) Property 8,991:

1) Recorded liens with preference or priority over mortgage herein included:

-None.

2) Junior Liens with inferior rank or priority over mortgage herein included:

-None.

PRAYER

WHEREFORE, the plaintiff demands judgment as follows:

a) That defendant's party pays unto the plaintiff the amounts claimed on this complaint;

b) Or in default thereof that all legal right, title and interest which the defendants may have in the property described in this complaint and any building or improvement thereon be sold at public auction and that the monies due to the United States as alleged in the preceding paragraphs be paid out of the proceeds of said sale;

c) That the defendants and all persons claiming or who may claim by, from or under them be absolutely barred and foreclosed from all rights and equity of redemption in and to said property;

d) That if the proceeds of such sale be insufficient to cover the amounts specified under paragraph 16 of this prayer, said defendant be adjudged to pay to the United States the total amount of money remaining unsatisfied to said paragraph (a) of this prayer, and execution be issued forthwith against said defendants for the payment of said deficiencies against any of the properties of said defendants;

e) That if the proceeds of said sale exceed the sum of money to be paid to the United States as aforesaid, any such excess be deposited with the Clerk of this Court subject to further orders from the Court;

f) That once the property is auctioned and sold, the Clerk

of this Court issue a writ addressed to the Registry of the Property ordering the cancellation of the foreclosed mortgage and of any other junior liens recorded therein;

g) For such further relief as in accordance with law and equity may be proper.

Certificate of service: I hereby certify that on this same date I have filed a true and exact copy of the foregoing motion using the CM/ECF system, which will send notification of such filing to all registered CM/ECF participants and to each one of codefendants, to the following address: P.O. Box 2401, Coamo, P.R. 00769; HC-02, Box 8040, Coamo, P.R. 00769 and Rd. 545, Km. 3.5, San Idelfonso Wd., Sector Gavia, Coamo, P.R. 00769.

In Guaynabo, Puerto Rico, this      day of                      , 2019.

/s/ Juan Carlos Fortuño Fas  
JUAN CARLOS FORTUÑO FAS  
USDCPR 211913

FORTUÑO & FORTUÑO FAS, C.S.P.  
P.O. BOX 9300  
SAN JUAN, PR 00908  
TEL. 787-751-5290  
FAX. 787-751-6155  
Email: [dcfilings@fortuno-law.com](mailto:dcfilings@fortuno-law.com)